

AMENDED IN SENATE APRIL 21, 2005

AMENDED IN SENATE APRIL 5, 2005

## SENATE BILL

No. 719

Introduced by ~~Senators Romero and Aanestad~~ *Senator Romero*

February 22, 2005

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An act to amend Section 13955 of the Government Code, *to amend Section 13519.8 of the Penal Code, and to amend Sections 1656.3 and 17004.7 of, to add Sections 1666.1 and 2911 to, and to repeal and add Section 14602.1 of, the Vehicle Code* relating to ~~crime victims vehicles~~, and making an appropriation therefor.

### LEGISLATIVE COUNSEL'S DIGEST

SB 719, as amended, Romero. ~~Public agency: liability: immunity.~~ *Police pursuits.*

~~Under existing law, a public agency employing peace officers that adopts a written policy on vehicular pursuits complying with specific standards is immune from liability for civil damages for personal injury to, or the death of, any person or damage to property resulting from the collision of a vehicle being operated by an actual or suspected violator of the law who is being, has been, or believes he or she is being, or has been, pursued by a peace officer employed by the public entity in a motor vehicle.~~

~~This bill would declare the intent of the Legislature to enact appropriate legislation to develop a policy governing vehicular pursuits by law enforcement to protect the public safety, lives, and property of the people of the state.~~

#### ~~Existing~~

~~(1) Existing law provides for compensation to crime victims, as specified, from the Restitution Fund, a continuously appropriated fund.~~

This bill would include as qualifying as a crime victim for those purposes, injury or death caused by any party where a peace officer is operating a motor vehicle in an effort to apprehend a suspect, and the suspect is evading, fleeing, or otherwise attempting to elude the peace officer.

By expanding the uses of a continuously appropriated fund, this bill would make an appropriation.

*(2) Existing law requires the Commission on Peace Officer Standards and Training to implement a course or courses of instruction for the training of law enforcement officers in the handling of high-speed vehicle pursuits and to develop uniform, minimum guidelines for adoption by California law enforcement agencies for response to high-speed vehicle pursuits, as specified. Existing law expresses the intent of the Legislature that all local law enforcement agencies adopt those guidelines as a minimum for the agency's pursuit policy.*

*This bill, instead, would require each law enforcement agency to adopt, promulgate, and require regular and periodic training consistent with an agency's specific pursuit policy that, at a minimum, complies with the commission's guidelines.*

*By imposing additional duties on local law enforcement agencies, this bill would impose a state-mandated local program.*

*(3) Existing law specifies certain content for the California Driver's Handbook and examinations for a driver's license.*

*This bill would require the Department of Motor Vehicles to include in the handbook information as to the risks and punishments associated with eluding a pursuing peace officer's motor vehicle and to include at least one question in each test of an applicant's knowledge and understanding to verify that the applicant has an understanding of the risks and punishments associated with eluding a pursuing peace officer's motor vehicle.*

*(4) Existing law establishes the California Traffic Safety Program, to include state and local programs, as specified.*

*This bill would require all traffic safety programs that receive state funds and that include public awareness campaigns involving emergency vehicle operations to include in the public awareness campaign, information on the risks to public safety of peace officer motor vehicle pursuits, and the penalties that may result from evading a peace officer.*

(5) Existing law requires each state and local law enforcement agency to report to the Department of the California Highway Patrol, on a form approved by the department, certain specific vehicle pursuit data, including, but not limited to, certain required data.

This bill would require the department to develop a standard police pursuit reporting form, would expand the scope of the data that must be included, and would require that the report be made to the department no later than 30 days following a police pursuit.

(6) Existing law provides that any public agency employing peace officers that adopts a written policy on vehicular pursuits, as specified, shall be immune from liability for civil damages for personal injury to or death of any person or damage to property resulting from the collision of a vehicle being operated by an actual or suspected violator of the law who is being has been, or believes he or she is being or has been pursued by a peace officer employed by the public entity in a motor vehicle. Existing law makes the adoption of a vehicle pursuit policy pursuant to these provisions discretionary.

This bill would make adoption, promulgation, and regular and periodic training pursuant to a vehicle pursuit policy mandatory.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. (a) The Legislature finds and declares the  
2 following:

3 ~~(1) Law enforcement officers in California engage in~~  
4 ~~thousands of pursuits each year, many resulting in accidents,~~  
5 ~~property damage, serious injuries, and death to innocent third~~  
6 ~~parties, police, and fleeing suspects.~~

7 ~~(2) California leads the nation in the number of innocent~~  
8 ~~bystanders killed in pursuits. A study by the National Highway~~

1 Traffic Safety Administration (NHTSA) indicated that in 2001  
2 there were 51 deaths in California that resulted from police  
3 pursuits. Twenty-two of the 51 deaths were innocent bystanders.

4 (3) Pursuit driving is a dangerous activity that must be  
5 undertaken with due care and with the understanding of specific  
6 risks as well as the need for realistic methods to apprehend a  
7 fleeing suspect.

8 (b) It is, therefore, the intent of the Legislature to enact  
9 appropriate legislation to develop a policy governing vehicular  
10 pursuits by law enforcement to protect the public safety, lives,  
11 and property of the people of the State of California.

12 (c) (1) The Legislature also finds and declares that Section  
13 1202.4 of the Penal Code requires a court to impose, in every  
14 case where a person is convicted of a crime, a separate and  
15 additional restitution fine that is required to be deposited in the  
16 Restitution Fund of the State Treasury unless it finds compelling  
17 and extraordinary reasons for not doing so and states those  
18 reasons on the record.

19 (2) It is the intent of the Legislature to allow an individual to  
20 be compensated from the Restitution Fund if that individual's  
21 injury or death is caused by any party where a peace officer is  
22 operating a motor vehicle in an effort to apprehend a suspect and  
23 the suspect is evading, fleeing, or otherwise attempting to elude  
24 the peace officer.

25 (a) *Thousands of crime suspects flee each year often resulting*  
26 *in law enforcement officers in California engaging in motor*  
27 *vehicle pursuits. Many pursuits result in accidents, property*  
28 *damage, serious injuries, and death to innocent third parties,*  
29 *peace officers, and fleeing suspects.*

30 (b) *Motor vehicle pursuits of fleeing suspects present*  
31 *inescapable and inherent risks that sometimes offend public*  
32 *sensibilities.*

33 (c) *According to statistics from the National Highway Safety*  
34 *Administration, California has consistently led the nation in the*  
35 *past 20 years in fatalities from crashes involving these pursuits.*

36 (d) *California leads the nation in the number of innocent*  
37 *bystanders killed in these pursuits. A study by the National*  
38 *Highway Traffic Safety Administration indicates that in 2003*  
39 *there were 46 deaths in California that resulted from high speed*  
40 *police pursuits of fleeing suspects. Thirteen of the 46 deaths were*

1 *innocent bystanders. Eighteen were passengers in the pursued*  
2 *vehicle and 15 were fleeing suspects.*

3 *(e) Pursuit driving is a dangerous activity that must be*  
4 *undertaken with due care and with the understanding of specific*  
5 *risks as well as the need for a realistic proportionate response to*  
6 *apprehend a fleeing suspect who poses a danger to the public.*

7 *(f) The primary function of all law enforcement agencies is to*  
8 *protect the public against personal injury, death, or property*  
9 *damage.*

10 *(g) It is, therefore, the intent of the Legislature to enact*  
11 *legislation that guides instances where law enforcement pursuits*  
12 *are warranted so as to protect the public safety, lives, and*  
13 *property of the people of the State of California.*

14 *(h) It is also the intent of the Legislature to decrease peace*  
15 *officer pursuits through public education, enforcement, and*  
16 *regular and periodic training of peace officers.*

17 *(i) It is also the intent of the Legislature in enacting this act to*  
18 *eliminate any unnecessary risks that evolve from peace officer*  
19 *pursuits, and to ensure that law enforcement pursuits are*  
20 *conducted in the safest and most effective approach throughout*  
21 *California.*

22 SEC. 2. Section 13955 of the Government Code is amended  
23 to read:

24 13955. Except as provided in Section 13956, a person shall  
25 be eligible for compensation when all of the following  
26 requirements are met:

27 (a) The person for whom compensation is being sought is any  
28 of the following:

29 (1) A victim.

30 (2) A derivative victim.

31 (3) A person who is entitled to reimbursement for funeral,  
32 burial, or crime scene cleanup expenses pursuant to subdivision  
33 (i) of Section 13957.

34 (b) Either of the following conditions is met:

35 (1) The crime occurred within the State of California, whether  
36 or not the victim is a resident of the State of California. This  
37 paragraph shall apply only during those time periods during  
38 which the board determines that federal funds are available to the  
39 State of California for the compensation of victims of crime.

(2) Whether or not the crime occurred within the State of California, the victim was any of the following:

(A) A resident of the State of California.

(B) A member of the military stationed in California.

(C) A family member living with a member of the military stationed in California.

(c) If compensation is being sought for a derivative victim, the derivative victim is a resident of California, or resident of another state, who is any of the following:

(1) At the time of the crime was the parent, grandparent, sibling, spouse, child, or grandchild of the victim.

(2) At the time of the crime was living in the household of the victim.

(3) At the time of the crime was a person who had previously lived in the household of the victim for a period of not less than two years in a relationship substantially similar to a relationship listed in paragraph (1).

(4) Is another family member of the victim, including, but not limited to, the victim's fiancé or fiancée, and who witnessed the crime.

(5) Is the primary caretaker of a minor victim, but was not the primary caretaker at the time of the crime.

(d) The application is timely pursuant to Section 13953.

(e) (1) Except as provided in paragraph (2), the injury or death was a direct result of a crime.

(2) Notwithstanding paragraph (1), no act involving the operation of a motor vehicle, aircraft, or water vehicle that results in injury or death constitutes a crime for the purposes of this chapter, except when the injury or death from such an act was any of the following:

(A) Intentionally inflicted through the use of a motor vehicle, aircraft, or water vehicle.

(B) Caused by a driver who fails to stop at the scene of an accident in violation of Section 20001 of the Vehicle Code.

(C) Caused by a person who is under the influence of any alcoholic beverage or drug.

(D) Caused by a driver of a motor vehicle in the immediate act of fleeing the scene of a crime in which he or she knowingly and willingly participated.

1 (E) Caused by a person who commits vehicular manslaughter  
2 in violation of subdivision (c) of Section 192 or Section 192.5 of  
3 the Penal Code.

4 (F) Caused by any party where a peace officer is operating a  
5 motor vehicle in an effort to apprehend a suspect, and the suspect  
6 is evading, fleeing, or otherwise attempting to elude the peace  
7 officer.

8 (f) As a direct result of the crime, the victim or derivative  
9 victim sustained one or more of the following:

10 (1) Physical injury. The board may presume a child who has  
11 been the witness of a crime of domestic violence has sustained  
12 physical injury. A child who resides in a home where a crime or  
13 crimes of domestic violence have occurred may be presumed by  
14 the board to have sustained physical injury, regardless of whether  
15 the child has witnessed the crime.

16 (2) Emotional injury and a threat of physical injury.

17 (3) Emotional injury, where the crime was a violation of any  
18 of the following provisions:

19 (A) Section 261, 262, 271, 273a, 273d, 285, 286, 288, 288a,  
20 288.5, or 289, or subdivision (b) or (c) of Section 311.4, of the  
21 Penal Code.

22 (B) Section 270 of the Penal Code, where the emotional injury  
23 was a result of conduct other than a failure to pay child support,  
24 and criminal charges were filed.

25 (C) Section 261.5 of the Penal Code, and criminal charges  
26 were filed.

27 (D) Section 278 or 278.5 of the Penal Code, where the  
28 deprivation of custody as described in those sections has endured  
29 for 30 calendar days or more. For purposes of this paragraph, the  
30 child, and not the nonoffending parent or other caretaker, shall be  
31 deemed the victim.

32 (g) The injury or death has resulted or may result in pecuniary  
33 loss within the scope of compensation pursuant to Sections  
34 13957 to 13957.9, inclusive.

35 *SEC. 3. Section 13519.8 of the Penal Code is amended to*  
36 *read:*

37 13519.8. (a) (1) The commission shall implement, ~~on or~~  
38 ~~before November 1, 1994,~~ a course or courses of instruction for  
39 the *regular and periodic* training of law enforcement officers in  
40 the handling of high-speed vehicle pursuits and shall also

1 develop uniform, minimum guidelines for adoption *and*  
2 *promulgation* by California law enforcement agencies for  
3 response to high-speed vehicle pursuits. The guidelines and  
4 course of instruction shall stress the importance of vehicle safety  
5 and protecting the public at all times, include a regular  
6 assessment of law enforcement's vehicle pursuit policies,  
7 practices, and training, and recognize the need to balance the  
8 known offense and the need for immediate capture against the  
9 risks to officers and other citizens of a high-speed pursuit. *These*  
10 *guidelines shall be a resource for each agency executive to use in*  
11 *the creation of a specific pursuit policy that the agency shall*  
12 *adopt and promulgate that reflects the needs of the agency, the*  
13 *jurisdiction it serves, and the law.*

14 (2) As used in this section, "law enforcement officer" includes  
15 any *peace officer or employee* of a local police or sheriff's  
16 department or the California Highway Patrol, *or of any other law*  
17 *enforcement agency authorized by law to conduct vehicular*  
18 *pursuits.*

19 (b) The course or courses of basic training for law  
20 enforcement officers and the guidelines shall include adequate  
21 consideration of each of the following subjects:

- 22 (1) When to initiate a pursuit.
- 23 (2) The number of involved law enforcement units permitted.
- 24 (3) Responsibilities of primary and secondary law  
25 enforcement units.
- 26 (4) Driving tactics.
- 27 (5) Helicopter assistance.
- 28 (6) Communications.
- 29 (7) Capture of suspects.
- 30 (8) Termination of a pursuit.
- 31 (9) Supervisory responsibilities.
- 32 (10) Blocking, ramming, boxing, and roadblock procedures.
- 33 (11) Speed limits.
- 34 (12) Interjurisdictional considerations.
- 35 (13) Conditions of the vehicle, driver, roadway, weather, and  
36 traffic.
- 37 (14) Hazards to uninvolved bystanders or motorists.
- 38 (15) Reporting and postpursuit analysis.
- 39 (c) (1) All law enforcement officers who have received their  
40 basic training before January 1, 1995, shall participate in



1 supplementary training on high-speed vehicle pursuits, as  
2 prescribed and certified by the commission.

3 ~~Local law~~

4 (2) ~~Law enforcement agencies are encouraged to~~ shall include,  
5 as part of their advanced officer training program, periodic  
6 updates and training on high-speed vehicle pursuit. The  
7 commission shall assist where possible.

8 (d) (1) The course or courses of instruction, the learning and  
9 performance objectives, the standards for the training, and the  
10 guidelines shall be developed by the commission in consultation  
11 with appropriate groups and individuals having an interest and  
12 expertise in the field of high-speed vehicle pursuits. The groups  
13 and individuals shall include, but not be limited to, law  
14 enforcement agencies, police academy instructors, subject matter  
15 experts, and members of the public.

16 (2) The commission, in consultation with these groups and  
17 individuals, shall review existing training programs to determine  
18 the ways in which high-speed pursuit training may be included as  
19 part of ongoing programs.

20 ~~(e) It is the intent of the Legislature that all local law~~  
21 ~~enforcement agencies adopt the minimum guidelines on~~  
22 ~~high-speed vehicle pursuit developed by the commission. Each~~  
23 ~~law enforcement agency shall adopt, promulgate, and require~~  
24 ~~regular and periodic training consistent with an agency's~~  
25 ~~specific pursuit policy that, at a minimum, complies with the~~  
26 ~~guidelines developed under subdivision (a).~~

27 SEC. 4. Section 1656.3 of the Vehicle Code is amended to  
28 read:

29 1656.3. (a) The department shall include within the  
30 California Driver's Handbook, as specified in subdivision (b) of  
31 Section 1656, language regarding ~~each of~~ the following:

32 (1) Rail transit safety.

33 (2) Abandonment or dumping of any animal on a highway.

34 (3) *The risks and punishments associated with eluding a*  
35 *pursuing peace officer's motor vehicle.*

36 (b) In order to minimize costs, the language referred to in  
37 paragraph (2) or (3), or both, of subdivision (a) shall be initially  
38 included at the earliest opportunity when the handbook is  
39 otherwise revised or reprinted.

40 SEC. 5. Section 1666.1 is added to the Vehicle Code, to read:

1 1666.1. The department shall include at least one question in  
2 each test, as administered under Section 12804.9, of an  
3 applicant's knowledge and understanding of this code to verify  
4 that the applicant has an understanding of the risks and  
5 punishments associated with eluding a pursuing peace officer's  
6 motor vehicle.

7 SEC. 6. Section 2911 is added to the Vehicle Code, to read:

8 2911. All traffic safety programs that receive state funds and  
9 that include public awareness campaigns involving emergency  
10 vehicle operations shall include in the public awareness  
11 campaign, information on the risks to public safety of peace  
12 officer motor vehicle pursuits, and the penalties that may result  
13 from evading a peace officer.

14 SEC. 7. Section 17004.7 of the Vehicle Code is amended to  
15 read:

16 17004.7. (a) The immunity provided by this section is in  
17 addition to any other immunity provided by law. ~~The adoption~~  
18 ~~of a policy by a public agency pursuant to this section is~~  
19 ~~discretionary~~ A public agency that employs peace officers to  
20 drive emergency vehicles and authorizes vehicle pursuits shall  
21 develop, adopt, promulgate, and provide regular and periodic  
22 training for those peace officers in accordance with the agency's  
23 pursuit policy that meets the guideline requirements set forth in  
24 Section 13519.8 of the Penal Code.

25 (b) A public agency employing peace officers ~~which that~~  
26 ~~adopts and promulgates~~ a written policy on, and provides  
27 regular and periodic training for, vehicular pursuits complying  
28 with ~~subdivision (e)~~ Section 13519.8 of the Penal Code is  
29 immune from liability for civil damages for personal injury to or  
30 death of any person or damage to property resulting from the  
31 collision of a vehicle being operated by an actual or suspected  
32 violator of the law who is being, has been, or believes he or she  
33 is being or has been, pursued by a peace officer employed by the  
34 public entity in a motor vehicle.

35 (c) ~~If the public entity has adopted a policy for the safe~~  
36 ~~conduct of vehicular pursuits by peace officers, it shall meet all~~  
37 ~~of the following minimum standards:~~

38 (1) ~~It provides that, if available, there be supervisory control of~~  
39 ~~the pursuit.~~

1 ~~(2) It provides procedures for designating the primary pursuit~~  
2 ~~vehicle and for determining the total number of vehicles to be~~  
3 ~~permitted to participate at one time in the pursuit.~~

4 ~~(3) It provides procedures for coordinating operations with~~  
5 ~~other jurisdictions.~~

6 ~~(4) It provides guidelines for determining when the interests of~~  
7 ~~public safety and effective law enforcement justify a vehicular~~  
8 ~~pursuit and when a vehicular pursuit should not be initiated or~~  
9 ~~should be terminated.~~

10 ~~(d) A determination of whether a policy adopted pursuant to~~  
11 ~~subdivision (c) complies with that subdivision~~ *public agency has*  
12 *complied with subdivision (b)* is a question of law for the court.

13 *SEC. 8. Section 14602.1 of the Vehicle Code is repealed.*

14 ~~14602.1. Every state and local law enforcement agency,~~  
15 ~~including, but not limited to, city police departments and county~~  
16 ~~sheriffs' offices, shall report to the Department of the California~~  
17 ~~Highway Patrol, on a form approved by that department, all~~  
18 ~~vehicle pursuit data, which shall include, but not be limited to, all~~  
19 ~~of the following:~~

20 ~~(a) Whether any person involved in a pursuit or a subsequent~~  
21 ~~arrest was injured, specifying the nature of that injury.~~

22 ~~(b) The violations which caused the pursuit to be initiated.~~

23 ~~(c) The identity of the officers involved in the pursuit.~~

24 ~~(d) The means or methods used to stop the suspect being~~  
25 ~~pursued.~~

26 ~~(e) The charges filed with the court by the district attorney.~~

27 *SEC. 9. Section 14602.1 is added to the Vehicle Code, to*  
28 *read:*

29 *14602.1. (a) The Department of the California Highway*  
30 *Patrol shall develop a standard police pursuit reporting form for*  
31 *uniform reporting of all vehicle pursuit data by state and local*  
32 *law enforcement agencies, including, but not limited to, city*  
33 *police departments, county sheriffs' offices, and the California*  
34 *Highway Patrol.*

35 *(b) The form shall require the reporting of all vehicle pursuit*  
36 *data, that shall include, but is not limited to, all of the following:*

37 *(1) The violations that caused the pursuit to be initiated.*

38 *(2) The identity of the officer who is involved in the pursuit.*

39 *(3) The means and methods used to stop the suspect who was*  
40 *being pursued.*

1     (4) *The charges filed with the court by the district attorney.*

2     (5) *The conditions of the pursuit, for example, the traffic*  
3 *condition, the time of day, the weather conditions, the vehicle*  
4 *speeds, the number of peace officers involved, and the number of*  
5 *law enforcement motor vehicles involved.*

6     (6) *Whether a pursuit resulted in a collision, property damage,*  
7 *injury or fatality, to any person involved in the pursuit, including*  
8 *the fleeing suspect and his or her passenger or passengers, or to*  
9 *the pursuing officers.*

10    (7) *Whether an uninvolved third party was injured or killed as*  
11 *a result of a pursuit or subsequent car accident.*

12    (8) *If personnel or motor vehicles from other law enforcement*  
13 *agencies assisted in the pursuit, the number of personnel and the*  
14 *number of motor vehicles from those agencies that responded.*

15    (9) *The role that an assisting law enforcement agency played*  
16 *in the pursuit.*

17    (c) *Each state and local law enforcement agency, including,*  
18 *but not limited to, city police departments, county sheriffs'*  
19 *offices, and the California Highway Patrol, shall report to the*  
20 *Department of the California Highway Patrol, on a form*  
21 *described in subdivision (a), all vehicle pursuit data required*  
22 *under subdivision (b), no later than 30 days following a police*  
23 *pursuit.*

24    SEC. 10. *If the Commission on State Mandates determines*  
25 *that this act contains costs mandated by the state, reimbursement*  
26 *to local agencies and school districts for those costs shall be*  
27 *made pursuant to Part 7 (commencing with Section 17500) of*  
28 *Division 4 of Title 2 of the Government Code.*